

Judge Franklin D. Burgess

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTONIO MYLES,

Defendant.

NO. CRO5-5606FDB

ORDER CONTINUING TRIAL DATE

The Court having reviewed the records and files herein and considered the stipulation of the parties, enters the following order:

1. On November 9, 2005, Keith MacFie was appointed as new counsel for the Defendant, Antonio Myles. Mr. MacFie has not yet received discovery from the Defendant's former counsel. Given his recent appointment, Mr. MacFie would not be prepared to file pretrial motions, negotiate a settlement, and/or proceed to trial.

2. The Defendant has no objection to the continuance and will file a waiver of speedy trial no later than November 18, 2005.

3. The ends of justice outweigh the best interest of the public and the Defendant in a speedy trial. Failure to grant a continuance based upon the circumstances would result in a miscarriage of justice in that the newly appointed defense counsel would not have adequate time to prepare the matter for trial. The continuance provides defense counsel a reasonable amount of time necessary for effective preparation, taking into account the

1 exercise of diligence. The continuance also allows for continuity of counsel for the
2 Defendant.

3 4. The parties have requested and stipulated to a continuance.

4 IT IS HEREBY ORDERED that the trial date is continued from November 28,
5 2005, to February 13, 2006. Pretrial motions are due no later than December 13, 2005.
6 The parties shall file their trial brief, jury instructions, exhibit list, witness list, and voir dire
7 questions no later than January 26, 2006. A pretrial conference is set for February 3, 2006
8 at 3:30 p.m.

9 IT IS FURTHER ORDERED that pursuant to Title 18, United States Code, Section
10 3161(h), the period of time from the current trial date of November 28, 2005 up to and
11 including the new trial date of February 13, 2006 is excluded in the computation of time
12 under the Speedy Trial Act.

13 DONE this 16th day of November, 2005.

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FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE

Presented by:

25 s/Bruce F. Miyake
26 BRUCE F. MIYAKE
27 WSBA No. 16813
28 Assistant United States Attorney

s/Keith MacFie, per telephonic approval
KEITH MacFIE
WSBA No. 11317
Attorney for Antonio Myles